#380

Report To
The Mississippi Legislature

A Review of the Use of Tidelands Funds

September 29, 1998

Mississippi's public trust tidelands include separate streams and bayous in an area extending to approximately three miles south of the Barrier Islands in the Gulf of Mexico. The state Tidelands Act requires individuals or organizations building on or utilizing public trust tidelands to lease them from the state and that such lease revenues be used for *"conservation, reclamation, preservation, acquisition, education or the enhancement of public access to the public trust tidelands or public improvement projects as they relate to such lands."*

The Office of the Secretary of State and the Department of Marine Resources (DMR) have collected and distributed Tidelands Funds in compliance with state law and appropriations bills. However, although Tidelands Funds projects are subject to legislative line-item appropriation, no state law or regulation requires that they be subject to formal analytical review to determine their merit, need, or compliance. Thus, some Tidelands Funds have not been expended for advancement of the objectives set forth in state law.

Further, of thirty-one projects receiving a total of $4 million in Tidelands Funds appropriations in FY 1998, only two projects complied with all DMR grant agreement reporting provisions. When entities administering Tidelands Funds projects do not document compliance with project guidelines through the required reports, the state has no assurance that the funds have been used for the purposes set forth in the Tidelands Act.

The PEER Committee

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

A Review of the Use of Tidelands Funds

September 29, 1998

The PEER Committee

Mississippi Legislature

The Mississippi Legislature

Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee

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September 29, 1998

Honorable Kirk Fordice, Governor
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Honorable Tim Ford, Speaker of the House
Members of the Mississippi State Legislature

On September 29, 1998, the PEER Committee authorized release of the report entitled **A Review of the Use of Tidelands Funds.**

Senator Ezell Lee, Chairman

This report does not recommend increased funding or additional staff.

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A Review of the Use of Tidelands Funds

September 29, 1998

Executive Summary

Introduction

The PEER Committee authorized this review of the use of Tidelands Funds in response to legislative concerns over the use of such funds.

Background

Public trust tidelands include discrete bodies of water (e.g., separate streams and bayous) and extend to approximately three miles south of the Barrier Islands. Any individual or organization building on or utilizing these tidelands must enter into a lease agreement with the state. The Secretary of State collects these tidelands lease revenues and deposits them into the Public Trust Tidelands Fund. At the close of each fiscal year the Secretary of State recovers any administrative costs incurred in his office's administering of the fund. Any remaining funds derived from lease rentals are disbursed pro rata to local taxing authorities for the replacement of all lost ad valorem taxes, with the remaining funds disbursed to the Commission on Marine Resources in accordance with legislative appropriations.

MISS. CODE ANN. Section 49-15-301 (1972) provides for the Mississippi Commission on Marine Resources to be the sole administrator of the Public Trust Tidelands Act. The commission's fifteen-year plan proposes that 50% of Tidelands Funds be dedicated to Public Access projects and 50% be dedicated to Management projects. Public Access projects involve the construction and acquisition of coastal resources (i.e., boat ramps, breakwaters, marinas, harbor repairs, piers), while Tidelands Management projects involve the conservation, reclamation, education, enhancement, preservation, and acquisition of marine-related coastal resources. The commission annually provides the Legislature with its recommended funding distribution plan for Management projects, as well as a list of applicants for Public Access projects.

In appropriating funds to DMR, the Legislature designates projects to be funded with Tidelands Funds in accordance with MISS. CODE ANN. Section 29-15-9. Upon receiving the Tidelands Funds from the Secretary of State in September of October, DMR enters into grant agreements with each local governing authority or private entity designated by the Legislature and distributes the appropriated amount of funds to each.

Overview

MISS. CODE ANN. Section 29-15-3 (1972) declares the public policy of the state "*to favor the preservation of the natural state of the public trust tidelands and their ecosystems and to prevent the despoliation and destruction of them, except where a specific alteration of specific public trust tidelands would serve a higher public interest in compliance with the public purposes of the public trust in which such tidelands are held.*"

The Secretary of State serves as administrator of the state's public trust lands, overseeing lease management of Public Trust Tidelands. The Department of Marine Resources is statutorily charged with tidelands management, which encompasses protection of the tidelands environment and administration of the Tidelands Act.

The Office of the Secretary of State and the Department of Marine Resources have collected and distributed funds in compliance with statutory provisions and legislative appropriations. However, local governing authorities and entities receiving FY 1998 appropriations did not comply with DMR grant agreement provisions for ninety-four percent of funded projects, which decreases the accountability for Tidelands Funds.

All projects which receive Tidelands Funds are subject to legislative line-item appropriations, but are not subject to an analytical review to determine their merit, need, or compliance with state law. This may not insure that tidelands resources are protected, preserved, or enhanced or that funds are expended for the advancement of the legislatively stated objectives of Tidelands Funds as set forth in MISS. CODE ANN. Section 29-15-9 (1972).

Tidelands Revenues and Expenditures

Collection of Tidelands Revenues

The Office of the Secretary of State has collected and distributed Tidelands Funds to the Department of Marine Resources in compliance with MISS. CODE ANN. Section 29-15-9 (1972).

The Office of Secretary of State collected $16,839,409 in tidelands revenues since enactment of the Tidelands Act in 1989. Of this $16,839,409, the office has retained $1,398,814, or eight percent (8%), to cover its administrative costs. The Office of Secretary of State has distributed the remaining $15,440,595, or ninety-two percent (92%), to the Commission on Marine Resources.

Distribution and Expenditure of Tidelands Revenues

The Department of Marine Resources has distributed Tidelands Funds in compliance with legislative appropriations.

Since the implementation of line-item budgeting in DMR's annual appropriation beginning in FY 1996, the Legislature has appropriated $14,500,000 to the agency for tidelands projects. In accordance with its appropriation authority, DMR has distributed the specified amount of Tidelands Funds to each local governing or private entity provided for in DMR's appropriation. DMR has distributed $9,175,000 of these funds to local governing bodies and private entities for Public Access projects and $5,325,000 for Management projects.

Local Entities' Compliance

Local governing authorities and entities receiving FY 1998 appropriations did not comply with DMR grant agreement provisions for ninety-four percent of funded projects.

DMR enters into a grant agreement with each local governing authority or entity designated by the Legislature to receive Tidelands Funds for Public Access or Management projects. PEER reviewed the thirty-one FY 1998 projects to determine if local entities' compliance with DMR grant agreement provisions.

One hundred percent of local governing authorities or private entities which received FY 1998 Tidelands Funds for Public Access projects failed to comply with DMR grant agreement provisions. Only two of the seventeen local governing authorities or private entities which received FY 1998 Tidelands Funds for Management projects complied with DMR grant agreement provisions. Local governing authorities' and private entities' failure to comply with DMR grant agreement provisions decreases the entities' accountability for Tidelands Funds, and, thus, the state's management of such funds.

Legislative Appropriations

All projects which receive Tidelands Funds are subject to line-item appropriations, but are not subject to formal analytical review.

All projects which receive Tidelands Funds are subject to line-item appropriations, but are not subject to an analytical review to determine their merit, need, or compliance with state law. DMR does evaluate proposals for Management projects and provides a recommended distribution of funding to the Legislature, but only provides the Legislature with a list of local governing authorities and private entities which have submitted applications for Public Access projects. The Legislature has appropriated funds to entities which have applied for such funds and to entities which have not submitted project applications. Further, no direct link has existed between entities' complying with DMR grant agreement provisions and the Legislature's appropriating funds to new projects.

Recommendations

1. The Legislature should require the Department of Marine Resources to utilize objective evaluation criteria to review all proposals from state agencies and local entities for Management and Public Access projects. Based on this review, DMR should compile a comprehensive list, in priority order, of such projects and submit the list to the Legislature by January 1 of each year. The Legislature should utilize DMR's comprehensive list

as a point of reference for appropriating Tidelands Funds to the department on behalf of state agencies and local entities.

Should other Management and Public Access projects which are not included on DMR's comprehensive list be considered for funding during the appropriation process, the Legislature should refer such projects to DMR. The department should evaluate the merits of such projects in accordance with the same evaluation criteria used to compile the list initially submitted to the Legislature and report the results of the evaluation to the Legislature prior to the conclusion of the legislative session. The Legislature should strive to ensure that all projects receiving Tidelands Funds have been objectively and equally evaluated and are in compliance with statutory provisions for the use of such funds.

2. If a state agency or local entity received a Tidelands Funds appropriation the prior year, the Legislature should only make subsequent appropriations of Tidelands Funds to those agencies or entities which DMR personnel certify have complied with all grant agreement provisions. The Legislature should require DMR to prepare an annual report, to be submitted with its annual recommendations for funding, of prior years' projects' compliance with grant agreement provisions for the Legislature's consideration in making appropriations.

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A Review of the Use of Tidelands Funds

Introduction

Authority

The PEER Committee reviewed the use of Tidelands Funds by the Secretary of State, Commission on Marine Resources, and local governmental and private entities pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972).

Scope and Purpose

The PEER Committee approved this review of the use of Tidelands Funds in response to legislative concerns regarding the expenditure of such funds. PEER sought to determine:

- the statutory provisions governing Tidelands Funds, including the collection of funds by the Office of the Secretary of State and the Department of Marine Resources' (DMR) distribution of funds;

- whether local governing authorities and entities have expended Tidelands Funds consistent with general law and/or appropriation bills and DMR-established criteria; and,

- whether the Legislature subjected all line-item appropriations for Tidelands Funds to formal analytical review.

Method

In conducting this review, PEER interviewed Secretary of State, Department of Marine Resources, and local governmental and private entities' personnel. PEER reviewed statutory language and appropriation bill provisions relevant to Tidelands Funds. PEER also analyzed expenditures of Tidelands Funds appropriated to DMR and distributed to local governing authorities and private entities for eighty-seven projects which received legislative appropriations in Fiscal Years 1996-1998.

Overview

MISS. CODE ANN. Section 29-15-3 (1972) declares the public policy of the state "*to favor the preservation of the natural state of the public trust tidelands and their ecosystems and to prevent the despoliation and destruction of them, except*

where a specific alteration of specific public trust tidelands would serve a higher public interest in compliance with the public purposes of the public trust in which such tidelands are held."

As administrator of the state's public trust lands, the Secretary of State oversees lease management of Public Trust Tidelands. The Department of Marine Resources is statutorily charged with tidelands management, which encompasses protection of the tidelands environment and administration of the Tidelands Act. The Office of the Secretary of State and the Department of Marine Resources have collected and distributed funds in compliance with statutory provisions and legislative appropriations. Local governing authorities and entities receiving FY 1998 appropriations did not comply with DMR grant agreement provisions for 94% of the funded projects. This lack of compliance with grant agreement reporting procedures decreases the accountability for Tidelands Funds.

All projects which receive Tidelands Funds are subject to legislative line-item appropriations, but are not subject to formal analytical review. This may not insure that tidelands resources are protected, preserved or enhanced or that funds are expended for the advancement of the legislatively stated objectives of Tidelands Funds as set forth in MISS. CODE ANN. Section 29-15-9 (1972). One policy option available to the Legislature to maximize the use of Tidelands Funds is to conduct a needs-based analysis of each Tidelands Funds project subject to line-item appropriations.

Background

History of Tidelands Funds

Until a court challenge in 1977, a dispute never existed as to whether the state owned tidelands. The question of the state's ownership arose in 1977 when the State Mineral Lease Commission issued a lease to Sago Petroleum and a private family issued a lease to Phillips Petroleum for the same property. The family contended that it owned title to the tidelands adjacent to its property. The United States Supreme Court ruled in *Phillips Petroleum Co. v. Mississippi*, 484 U.S. 469 (1988), that the State of Mississippi possessed title to the land in question, determining that the state possessed title of all land affected by the ebb-and-flow of the tide.

Blue Ribbon Commission on Public Trust Tidelands

Following the Supreme Court's decision in February 1988, the Secretary of State established the Blue Ribbon Commission on Public Trust Tidelands which developed the state's leasing and management plan for tidelands. The commission recommended that Mississippi's public trust tidelands receive the monetary benefit derived from the leasing of these lands for their management, protection, enhancement, and restoration. The commission recommended that the then-Department of Wildlife Conservation, Bureau of Marine Resources expend the funds for additional management of public trust tidelands and acquisition of adjacent lands. The commission stated that "*in no event should these revenues be used to replace general appropriations to the Bureau of Marine Resources or to fund that Bureau's existing operations.*" Further, the commission stated that "*those monies returned to local taxing authorities are to be used exclusively for public trust tidelands - their reclamation, conservation and preservation; education; or enhancement of public access.*"

The state holds tidelands in a trust for the benefit of the citizens of Mississippi. The state, as trustee, is like other trustees with respect to its duty to manage lands and other properties. Trustees must manage lands for the benefit of trust beneficiaries, in this instance the citizens of Mississippi. Such management requires that the manager of the property protect against waste and other forms of mismanagement to insure that the people of Mississippi are receiving the highest benefit from the use of the land.

The commission's report became the foundation for the Tidelands Act passed by the Legislature on March 31, 1989, and codified in Title 29, Chapter 15 of the MISSISSIPPI CODE.

Statutory Provisions for Tidelands Funds

MISS. CODE ANN. Section 29-15-3 (1972) declares the public policy of the state "*to favor the preservation of the natural state of the public trust tidelands and their ecosystems and to prevent the despoliation and destruction of them, except where a specific alteration of specific public trust tidelands would serve a higher public interest in compliance with the public purposes of the public trust in which such tidelands are held.*"

MISS. CODE ANN. Section 29-1-107 (2) (1972) provides that the Secretary of State, with the consent of the Governor, may lease or rent public tidelands. MISS. CODE ANN. Section 29-15-9 (1972) provides that lease revenues collected by the Secretary of State, except those funds derived from mineral leases, or funds designated to be applied to other agencies, be transferred to a special fund known as the "Public Trust Tidelands Fund." The section provides for the Secretary of State, as trustee, to recover any administrative costs incurred in that office's administering of the fund. Any remaining funds derived from lease rentals are disbursed pro rata to local taxing authorities for the replacement of lost ad valorem taxes, if any, that will not be paid to the counties on state-owned public trust tidelands.

MISS. CODE ANN. Section 29-15-9 (1972) provides for the Secretary of State to disburse any remaining funds to the Commission on Marine Resources. DMR implements the programs of the Commission on Marine Resources. The section provides for the commission to use the funds for new and extra programs of tidelands management, such as "*conservation, reclamation, preservation, acquisition, education or the enhancement of public access to the public trust tidelands or public improvement projects as they relate to such lands.*"

Management of Tidelands Funds

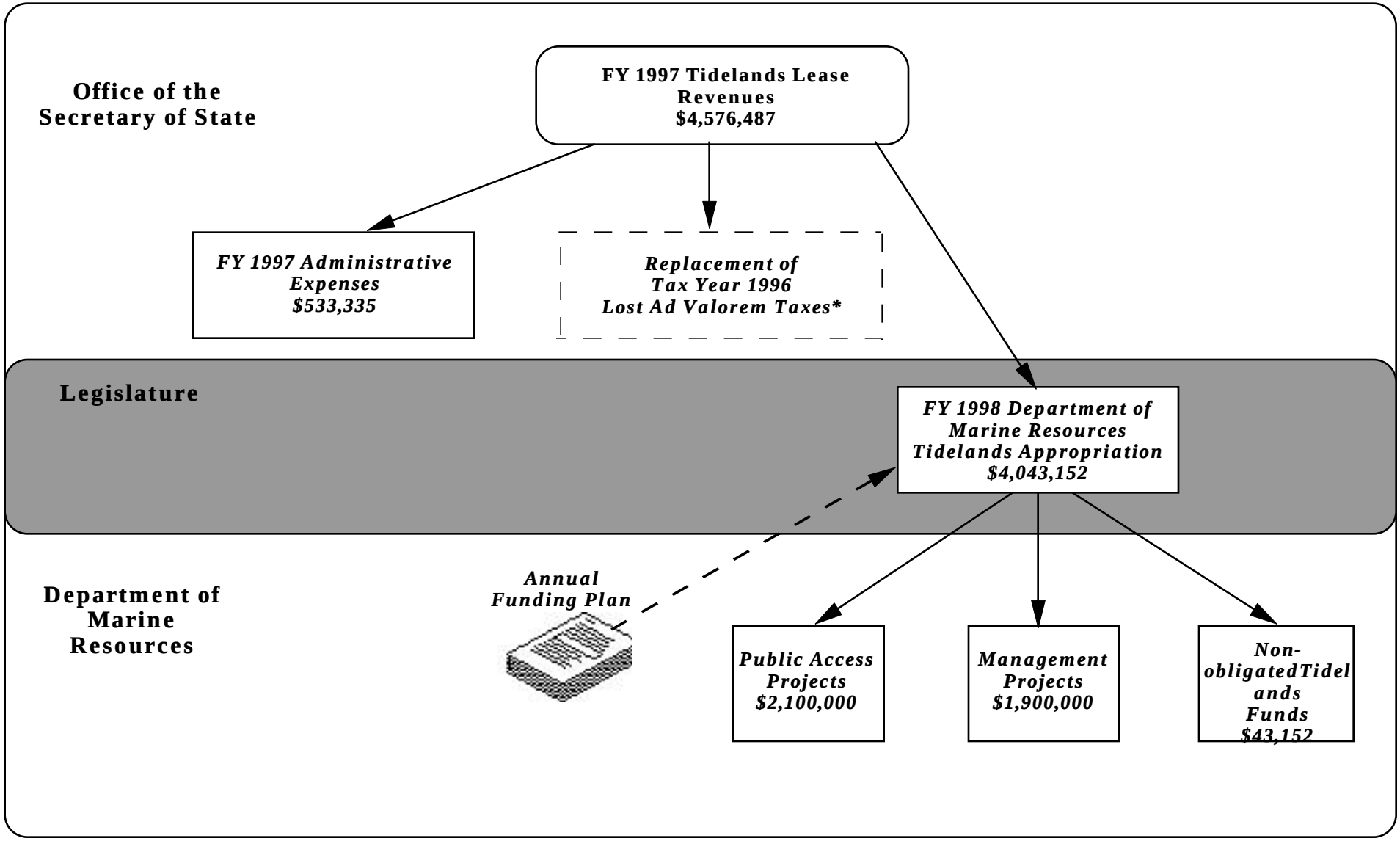
The Office of the Secretary of State collects tidelands lease revenues, the majority of which is forwarded to DMR to distribute to local entities as designated by the Legislature in DMR's annual appropriation. Exhibit 1, page 5, depicts the flow of FY 1997 tidelands lease revenues from the point of collection by the Office of the Secretary of State to the Commission on Marine Resources' disbursement of funds to local entities which received grants via legislative FY 1998 line-item appropriations. An overview of these governmental bodies' management of Tidelands Funds is presented below.

Secretary of State's Office

Public trust tidelands include discrete bodies of water (e.g., separate streams and bayous) and extend to approximately three miles south of the Barrier Islands (see Exhibit 2, page 6). Tidelands encompass approximately 504,304 acres, or 788 square miles. Any individual or organization building on or utilizing these tidelands must enter into a lease agreement with the state.

Exhibit 1

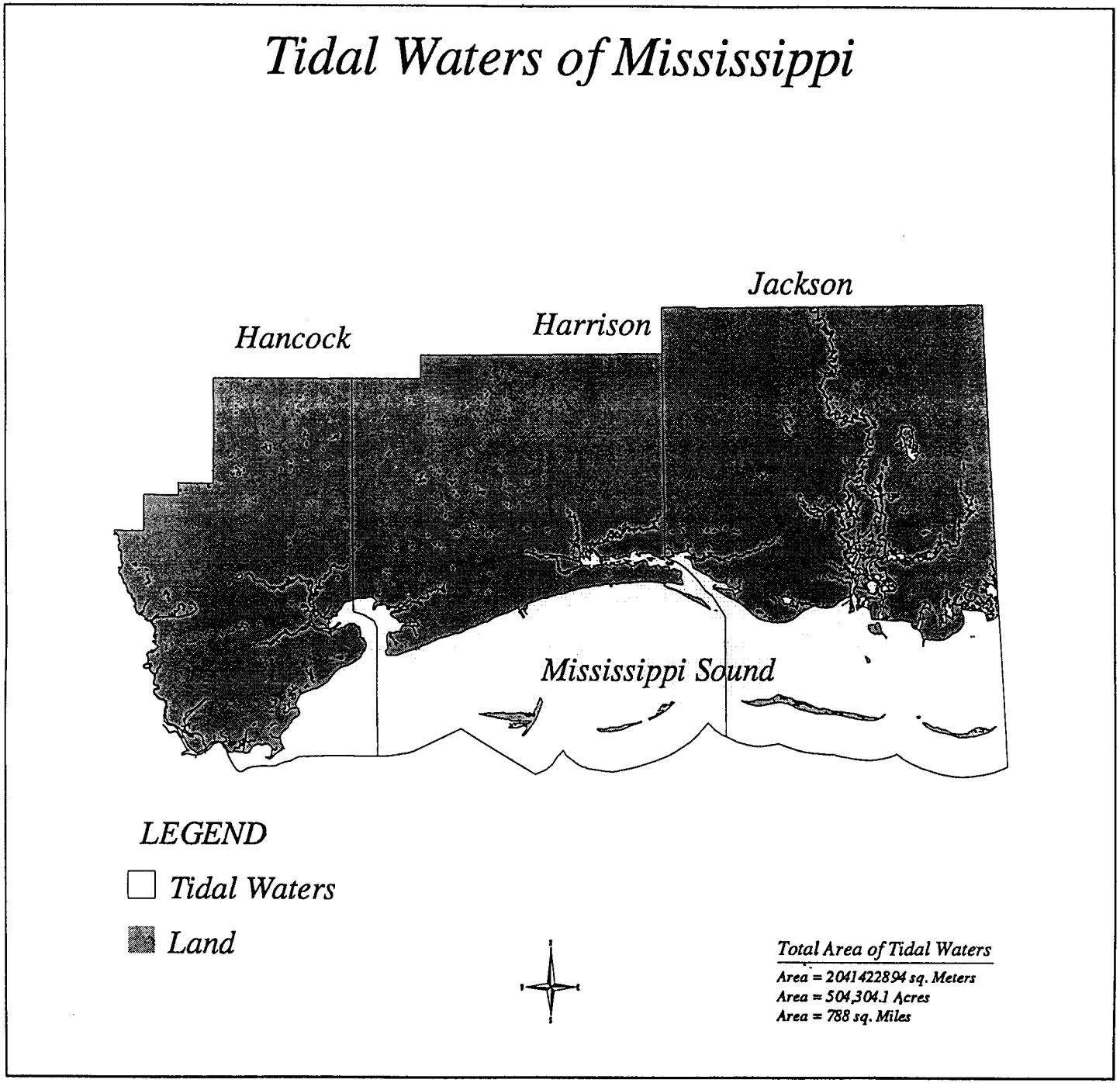
Distribution of FY 1997 Tidelands Revenues



*The Office of the Secretary of State should have forwarded $1,993 at the close of FY 1997, but did not do so until the close of FY 1998

SOURCE: PEER analysis of Fiscal Years 1996 - 1998 tidelands expenditures.

Exhibit 2



SOURCE: Mississippi Automated Resource Information System (MARIS).

As administrator of the state's public trust lands, the Secretary of State oversees management of tidelands. MISS. CODE ANN. Section 29-1-107 (2) (1972) provides that the Secretary of State, with the consent of the Governor, may lease or rent public tidelands. These leases or rentals may not exceed a period of forty years, with the state collecting annual lease payments. The Secretary of State establishes a lease payment amount based on fair market rental values as determined by an assessment by a certified appraiser.

As opposed to its statutory responsibilities in the administering of sixteenth section lands for maximum revenue, the Secretary of State is charged in MISS. CODE ANN. Section 29-15-3 (1972) to "favor the preservation of the natural state of the public trust tidelands." Adhering to this policy of preservation, the Office of Secretary of State leases less than ten percent of the public trust tidelands. The Secretary of State considers three basic criteria in determining whether to approve requests for leases of public trust tidelands: whether the project is in the public's interest, resource management of tidelands, and protection of rights of existing property owners.

The Secretary of State deposits lease revenues into the Public Trust Tidelands Fund. At the close of each fiscal year (i.e., June 30) the Secretary of State recovers any administrative costs incurred in his office's administering of the fund. Any remaining funds derived from lease rentals are disbursed pro rata to local taxing authorities for the replacement of all lost ad valorem taxes. The Secretary of State then disburses, usually in September or October, the remaining funds in the Public Trust Tidelands Fund to DMR in accordance with legislative appropriations made during the previous legislative session.

Commission on Marine Resources

MISS. CODE ANN. Section 49-15-301 (1972) provides for the Mississippi Commission on Marine Resources to be the sole administrator of the Public Trust Tidelands Act. The commission approved a fifteen-year strategic plan in 1995, with revisions adopted in 1997, to establish an equitable and fair manner of meeting the objectives of MISS. CODE ANN. Section 29-15-9 (1972) regarding tidelands management. The commission's Tidelands Program's mission is "*to utilize public trust tidelands funds in the manner allowed by law; to develop, protect and conserve coastal resources; and, to increase the public's access and enjoyment of all coastal waters.*"

To accomplish this mission, the commission's fifteen-year plan proposes that 50% of Tidelands Funds be dedicated to Public Access projects and 50% be dedicated to Management projects. The commission adopted this distribution in order to develop, protect, and conserve coastal resources. Public Access projects involve the construction and acquisition of coastal resources (i.e., boat ramps, breakwaters, marinas, harbor repairs, piers), while Tidelands Management projects involve the conservation, reclamation, education, enhancement, preservation, and acquisition of marine-related coastal resources.

The commission's fifteen-year plan also includes evaluation criteria for Management projects, as well as application procedures for local entities desiring grants. The plan does not contain evaluation criteria for Public Access projects. The plan requires each applicant to present an overview of the proposed project, including the manner in which the project meets the objectives of MISS. CODE ANN. Section 29-15-9 (1972).

The Commission on Marine Resources uses a two-step procedure in evaluating Management project applications for Tidelands Funds. The first level of review is the Compliance Review to determine whether the application is complete, accurate, and legible and whether the project "complies with the basic intent of MISS. CODE ANN. Section 29-15-9 (1972)." DMR's Tidelands Program personnel conduct this review. Applications which successfully complete this level of review advance to the second level of review, the Merit Review. Members of the Merit Review Team score and rank the applications according to nine weighted criteria of the fifteen-year strategic plan. Members of this team include representatives of the Commission on Marine Resources, the DMR, the Office of the Secretary of State, Mississippi State University's Coastal Extension Service, University of Southern Mississippi's Gulf Coast Research Laboratory, and the Department of Environmental Quality.

The Merit Review Team provides a ranked list of these Management projects with recommended funding amounts to the Commission on Marine Resources. Subsequent to approval, the commission annually provides the Legislature with its recommended funding distribution plan for Management projects, as well as a list of applicants for Public Access projects.

In appropriating funds to DMR during each legislative session for the next fiscal year's (July-June) operations, the Legislature designates projects to be funded with Tidelands Funds. Upon receiving the Tidelands Funds from the Secretary of State in September of October, DMR enters into grant agreements with each local governing authority or private entity designated by the Legislature and distributes the appropriated amount of funds to each.

Legislature

Within the parameters contained in MISS. CODE ANN. Section 29-15-9, the distribution of Tidelands Funds is ultimately left to the discretion of the Mississippi State Legislature. In addition, the Legislature has the Commission on Marine Resources' annual project funding recommendations available as a reference for its appropriation decisions.

Prior to Fiscal Year 1996, the Legislature simply appropriated Tidelands Funds in the Department of Wildlife, Fisheries, and Parks' Bureau of Marine Resources' special funds. The Legislature began line-item budgeting of Tidelands Fund projects in Fiscal Year 1996 after the amount of revenue from tidelands leases increased significantly due to the passage of legalized gambling.

Legalization of dockside gambling in June 1990 and the opening of Mississippi's first casinos in fall of 1992 resulted in casinos leasing and building tidelands. Appraised property values have also increased in the coastal counties. With passage of DMR's appropriation bill by the Legislature each year, the agency has the authority to distribute the specified amount of Tidelands Funds to each entity upon receiving the funds from the Office of the Secretary of State in September or October.

Tidelands Revenues and Expenditures

Collection of Tidelands Revenues

The Office of the Secretary of State has collected and distributed Tidelands Funds to the Department of Marine Resources in compliance with MISS. CODE ANN. Section 29-15-9 (1972).

MISS. CODE ANN. Section 29-15-9 (1972) provides that lease revenues collected by the Secretary of State be transferred to the "Public Trust Tidelands Fund." At the close of each fiscal year the Secretary of State recovers any administrative costs incurred in his office's administering of the fund. Any remaining funds derived from lease rentals are disbursed pro rata to local taxing authorities for the replacement of all lost ad valorem taxes, with the remaining funds disbursed to the Commission on Marine Resources in accordance with legislative appropriations.

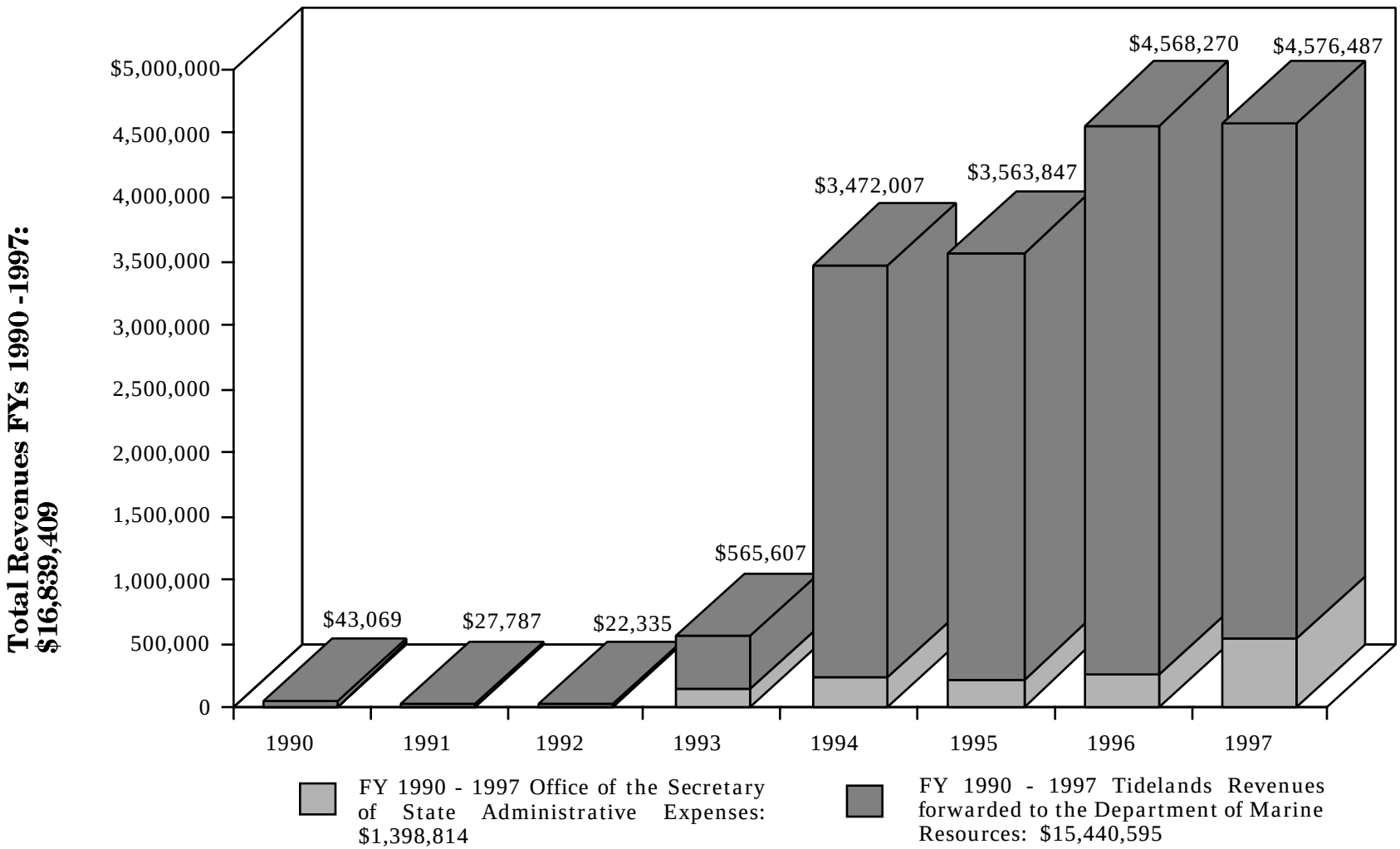
As depicted in Exhibit 3, page 11, the Office of Secretary of State collected $16,839,409 in tidelands revenues since enactment of the Tidelands Act in 1989. The recent dramatic growth in tidelands revenues is predominantly due to the legalization of dockside gambling in June 1990 and the opening of Mississippi's first casinos in fall of 1992. Casinos are leasing and building on tidelands and property appraisal values have increased in the coastal counties. Of this $16,839,409, the Office of the Secretary of State has retained $1,398,814, or eight percent (8%), to cover its administrative costs. These administrative costs include salaries of two tidelands personnel in the Secretary of State's Gulf Coast office; office expenses; a portion of the salary of the Public Lands Division Director, who oversees tidelands; and, court costs involved in tidelands litigation. The Office of Secretary of State has distributed the remaining $15,440,595, or ninety-two percent (92%), to the Commission on Marine Resources. The Office of Secretary of State estimates FY 1998 tidelands lease revenues of $3,928,277, with $522,552 in administrative expenses, resulting in $3,405,725 being forwarded to DMR as FY 1999 revenue.

Exhibit 1, page 5, depicts the flow of FY 1997 tidelands lease revenues from the point of collection by the Office of the Secretary of State to the Commission on Marine Resources' disbursement of funds to local entities which received grants via legislative FY 1998 line-item appropriations. Funds which are collected via lease agreements by the Office of Secretary of State during one fiscal year are recognized as tidelands revenue by the Commission on Marine Resources during the next fiscal year. This is due to the fact that the Office of the Secretary of State does not normally close out its books, retain its administrative costs incurred, and forward any remaining funds to the Commission on Marine Resources until the end of August.

The Office of Secretary of State did not owe any local taxing authorities reimbursement for lost ad valorem taxes until tax year 1996. The Office of Secretary of State overlooked this reimbursement totaling $1,993 owed Harrison

Exhibit 3

Tidelands Revenues and Distributions: Fiscal Years 1990-1997



NOTE: Office of the Secretary of State personnel anticipate FY 98 revenues of $3,928,277 and expenses of $522,552, with $3,405,725 distributed to DMR in August or September 1998 as FY 99 tidelands revenues.

SOURCE: Office of the Secretary of State and PEER analysis.

County at the close of FY 1997 (June 30, 1997), but did reimburse the county, along with tax year 1997's reimbursement, on July 3, 1998.

Distribution and Expenditure of Tidelands Revenues

The Department of Marine Resources has distributed Tidelands Funds in compliance with legislative appropriations.

Since the implementation of line-item budgeting in DMR's annual appropriation beginning in FY 1996, the Legislature has appropriated $14,500,000 to the agency for tidelands projects. In accordance with its appropriation authority, DMR has distributed the specified amount of Tidelands Funds to each local governing or private entity provided for in DMR's appropriation. DMR has distributed $9,175,000 of these funds to local governing bodies and private entities for Public Access projects and $5,325,000 for Management projects (see Exhibit 4, page 13). Appendix A, page 23, provides descriptions, as well as the expenditures and status, of these eighty-seven appropriated projects.

Exhibit 5, page 14, provides the location of these Public Access projects. The majority of appropriations for Management projects have gone to DMR and the University of Southern Mississippi's Gulf Coast Research Lab. DMR received twenty-seven appropriations for Management projects and the lab received eleven.

DMR uses any Tidelands Funds it receives in excess of those appropriated by the Legislature for distribution to specific projects at its discretion for tidelands management or for tidelands emergencies. For example, DMR expended $31,960 of non-obligated funds in FY 1997 to reimburse local oystermen for oysters contaminated by the Red Tide algae which DMR had to collect and destroy. As of July 15, 1998, DMR's non-obligated Tidelands Funds totaled $685,600.65. DMR plans to use these non-obligated funds for emergencies, matching funds for federal tidelands grants, environmental monitoring, public service information spots, and land acquisitions.

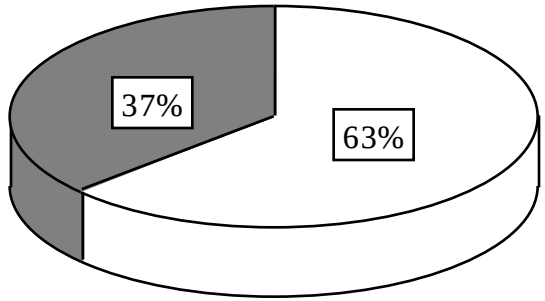
Local Entities' Compliance

Local governing authorities and entitiesreceivingFY1998appropriationsdidnot comply with DMR Grant agreement provisions for 94% of the funded projects.

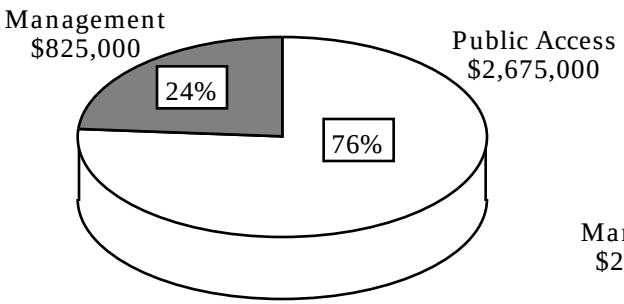
The Legislature appropriates Tidelands Funds to the Department of Marine Resources for distribution to local governing authorities and private entities. DMR enters into a grant agreement with each local governing authority or entity designated by the Legislature to receive Tidelands Funds for Public Access or Management projects. DMR distributes the funds on a lump-sum basis to the local governmental or private entities. PEER reviewed the thirty-one FY 1998 projects to determine if local entities complied with DMR grant agreement provisions rather than FY 1996 and FY 1997 projects because FY 1998 grant

Exhibit 4

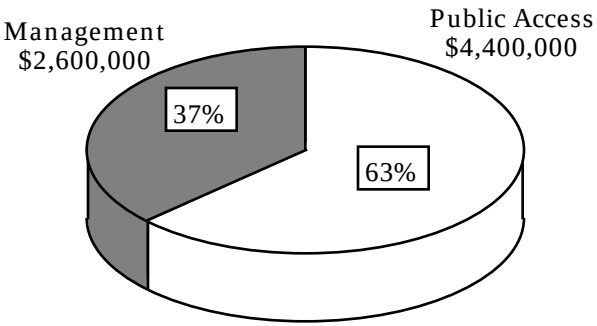
Tidelands Appropriations: Public Access v. Management Projects
Fiscal Years 1996-1998



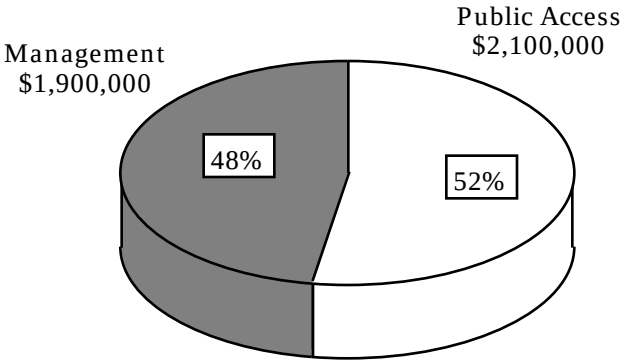
Fiscal Years 1996 -1998 Total:
$14,500,000



FY 1996: $3,500,000



FY 1997: $7,000,000

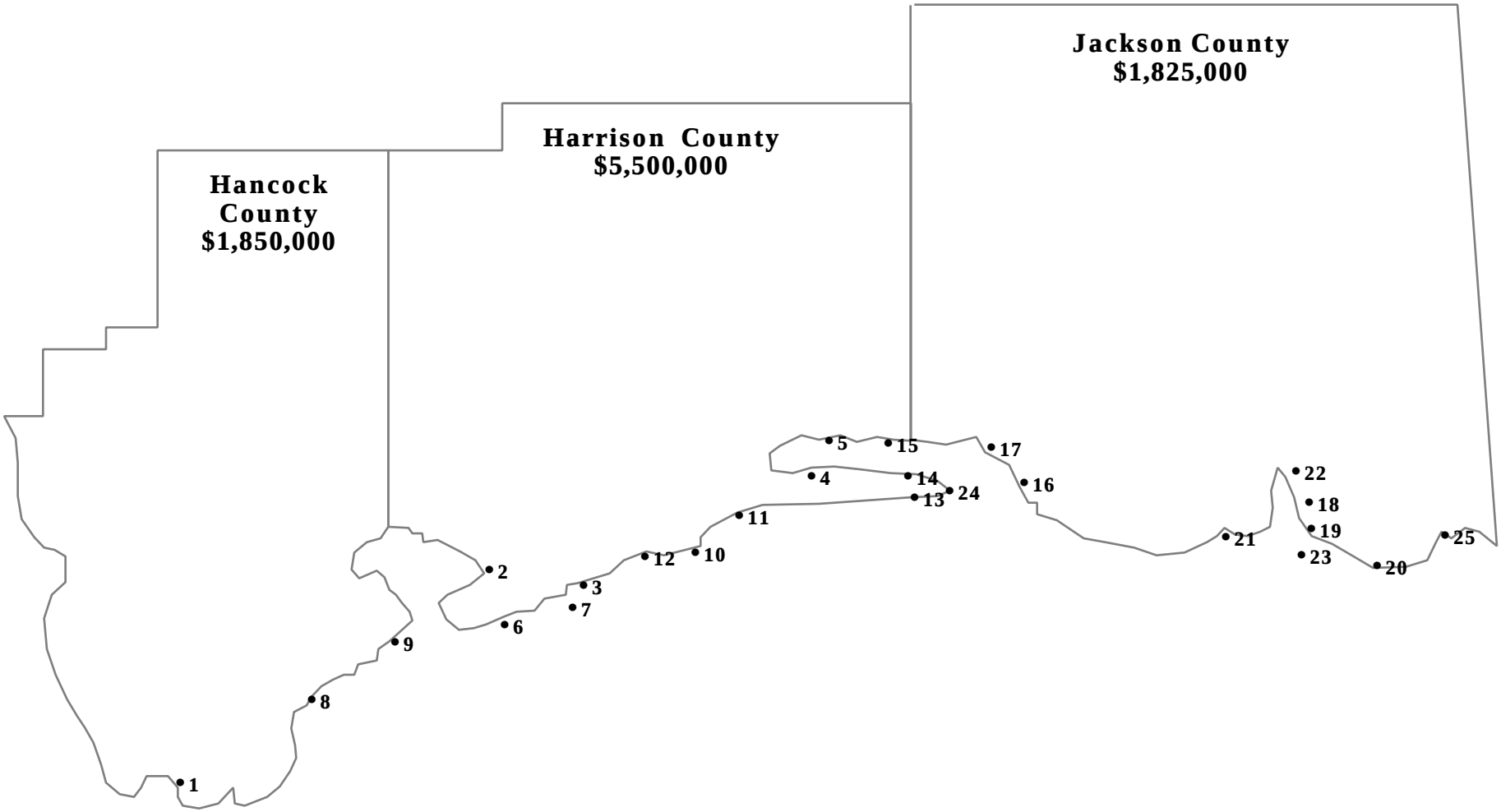


FY 1998: $4,000,000

SOURCE: Department of Marine Resources and PEER analysis of Fiscal Years 1996 - 1998 appropriation bills.

Exhibit 5

Tidelands Public Access Project Sites and Appropriated Funds by County, Fiscal Years 1996-1998



1-Bayou Caddy Marine
2-DeLisle Boat Launch
3-Gulf Park & Jeff Davis Piers
4-Popp's Ferry Causeway
5-Parker's Creek Boat Ramp
6-Pass Christian Harbor Repairs
7-Long Beach Harbor Repairs
8-Waveland Pier Extensions
9-Ulman Avenue Pier Repair
10-City of Gulfport Urie Pier Repairs
11-City of Gulfport Courthouse Pier Repairs
12-City of Gulfport Westside Pier Repairs
13-Biloxi Schooner
14-Biloxi Port Commission Boat Docking Facilities
15-D'Iberville Port Commission Boat Docking Facilities
16-Ocean Springs Harbor Repairs
17-Fort Bayou Parks & Boat Ramp
18-Pascagoula Port Commission Boat Launch
19-Pascagoula Port Commission Boat Launch
20-Pascagoula Port Commission Boat Launch
21-Gautier Park Waterfront
22-Moss Point Waterfront Acquisition
23-City of Pascagoula Round Island Lighthouse
24-Gulf Coast Research Lab Point Cadet Project
25-Cedar Point Campus Project

SOURCE: PEER analysis of Department of Marine Resources documentation.

provisions required more accountability by local entities. Local governing authorities and entities did not comply with DMR grant agreement provisions for twenty-nine, or ninety-four percent, of the thirty-one appropriated projects.

- *One hundred percent of local governing authorities or private entities which received FY 1998 Tidelands Funds for Public Access projects failed to comply with DMR grant agreement provisions.*

DMR entered into grant agreements totaling $2,100,000 with local governing authorities and private entities for fourteen Public Access projects. Public Access projects involve the construction and acquisition of coastal resources (i.e., boat ramps, breakwaters, marinas, harbor repairs, piers). In their signing of these grant agreements, local entities agreed to:

-- expend monies for the project as designated in the appropriation bill and MISS. CODE ANN. Section 29-15-9 (1972) and be subject to an audit by the State Auditor;

-- provide DMR with project status reports on December 31, 1997, and June 30, 1998, which include final project design, narrative description of project, benefits to the community, photographs of the project, and funds expended;

-- furnish results of an independent audit and final report; and,

-- erect a permanent sign at the project site stating that the project was funded with Tidelands Funds.

All fourteen of the local governing authorities and private entities designated in DMR's appropriation expended Tidelands Funds for the projects for which they applied. Local governing authorities and private entities are using due diligence in their expenditure of funds, as evidenced by the solicitation of bids for materials and services, as well as the utilization of higher quality materials which will survive the elements of the weather and the environment (i.e., concrete rather than wooden piers).

None of the fourteen entities complied with all of the reporting provisions set forth in their grant agreement with DMR. Only three of the fourteen local entities submitted the project status report required to be submitted on December 31, 1997. Only one entity submitted the June 30, 1998, status report. Only two of the fourteen FY 1998 Public Access projects have been completed, with only one of these two entities furnishing DMR with a final report. Neither of the two entities have submitted an independent audit. All erected permanent signs at the Public Access project sites stating that the projects were funded with Tidelands Funds.

- *Only two of the seventeen local governing authorities or private entities which received FY 1998 Tidelands Funds for Management projects complied with DMR grant agreement provisions.*

DMR also entered into grant agreements totaling $1,900,000 with local governing authorities and private entities for seventeen Management projects. Management projects involve the conservation, reclamation, education, enhancement, preservation, and acquisition of marine-related coastal resources. In their signing of these grant agreements, local entities agreed to:

-- expend monies for the project as designated in the appropriation bill and MISS. CODE ANN. Section 29-15-9 (1972) and be subject to an audit by the State Auditor;

-- provide DMR with project status reports on December 31, 1997, and June 30, 1998, which include project objectives, work completed, benefits to the public and community, photographs of the project, project summary and conclusions, and funds expended; and,

-- furnish results of an independent audit of project expenses and a final report.

All seventeen of the local governing authorities and private entities expended Tidelands Funds for the projects designated in DMR's appropriation bill. Only two of the seventeen local entities submitted the required project status reports on both December 31, 1997, and June 30, 1998. None of the seventeen FY 1998 Management projects have been completed, thus no final reports or audits are due.

Local governing authorities' and private entities' failure to comply with DMR grant agreement provisions decreases the entities' accountability of Tidelands Funds, and, thus, the state's management of such funds. It is important that DMR receive project plans which document materials to be used so that the agency may insure that the public access to tidelands is enhanced via products of the highest quality, for example a secure, well-lit concrete pier with adequate parking based upon an engineer's design, rather than a pier simply constructed of wood. Interim status reports are required to insure that funds are spent for the purposes set forth in law and in a timely manner. Audits document the expenditure of funds and reflect any remaining balance, such as the approximate $160,000 balance of funds for projects completed without a deficit as of May 15, 1998. These remaining funds should only be used for other Tidelands Funds projects and should not be unaccounted for in the entity's budget.

Legislative Appropriations

All projects which receive Tidelands Funds are subject to line-item appropriations, but are not subject to formal analytical review.

In making its annual appropriation to DMR, including line-item appropriations to local governing authorities and private entities for Tidelands Funds, a burden is on the Legislature to ensure that Tidelands Funds are utilized for their statutory purpose. MISS. CODE ANN. Section 29-15-9 (1972) provides for Tidelands Funds to be used for new programs of tidelands management, such as *"conservation, reclamation, preservation, acquisition, education or the enhancement of public access to the public trust tidelands or public improvement projects as they relate to such lands."*

Since FY 1996, all projects which have received appropriations of Tidelands Funds have not been subjected to an analytical review to determine their merit, need, or compliance with state law. As stated on page 8, DMR receives and objectively evaluates proposals from state agencies and local entities for Tidelands Funds for Management projects. In contrast, rather than formally evaluating and ranking Public Access applications, the department only includes (at least for FY 1998) such projects on its annual recommendation list to the Legislature. The Legislature utilizes DMR's project list as a point of reference to determine which state agencies and local entities have applied to receive line-item appropriations of Tidelands Funds for a particular fiscal year.

During the appropriation process, proponents of various Management or Public Access projects (which may not be included on DMR's recommendation list) encourage the Legislature to include funding for such projects in DMR's line-item appropriation. While such projects may be considered meritorious, they have not been subjected to the same analytical review as those evaluated and ranked by DMR. Without subjecting all projects to the same analytical review for funding, the Legislature risks funding projects which could be inconsistent with statutory provisions regarding the use of Tidelands Funds. For example, local governing authorities and entities expended funds on the following five projects, designated by the Legislature to receive funds totaling $320,000 between Fiscal Years 1996 to 1998, which may not fully comply with statutory purposes of Tidelands Funds as set forth in MISS. CODE ANN. Section 29-15-9 (1972):

- *Department of Archives and History, $40,000 (1998 Management)*: The Department of Archives and History received this appropriation from the Legislature to locate and assess the condition, age, and cultural affiliation of this shipwreck located in the Back Bay of Biloxi. The Legislature, rather than the Department of Archives and History, initiated this appropriation and the department did not submit an application for the project until after passage of the appropriation bill. Because location and assessment of this vessel does not relate directly to public access or the public improvement of tidelands areas, the project does not meet the requirements of MISS. CODE ANN. Section 29-15-9 (1972).

- *Biloxi Maritime and Seafood Museum, $150,000 (1997 Public Access)*: The Biloxi Maritime and Seafood Museum stated on its application for this appropriation that Tidelands Funds would be used "to educate the universal public with regard to Mississippi's maritime heritage, coastal environment, coastal ecology, marine resources, and Mississippi Gulf Coast sail heritage." The museum marketed this project as a maritime history project. Maritime history does not educate the public regarding tidelands issues or resources. The museum expended $130,254 of this $150,000 grant to retire construction and maintenance expenditures for two oyster schooners which the museum operates to subsidize museum operations. The museum operates the schooners for sailing or charters, including weddings, dockside receptions, birthdays, and other special events. The museum does offer special two-hour educational trips for school groups. PEER does not question the value of a maritime museum, but funds for the operation of such should come from private donations or maritime organizations. MISS. CODE ANN. Section 29-15-9 (1972) provides for the public's education on tidelands, not maritime history. Further, MISS. CODE ANN. Section 29-15-9 (1972) requires the Commission on Marine Resources to utilize Tidelands Funds for new programs of tidelands management, which retiring debt does not constitute.

- *Biloxi Maritime and Seafood Museum, $100,000 (1998 Management)*: The museum requested these funds to cover schooner maintenance expenses, develop an Elderhostel program, to enhance its Outreach Program Coordinator position, and to acquire computer and copy equipment for its operations. As of May 15, 1998, the museum had expended $9,368 for schooner maintenance and equipment and $10,657 for museum equipment and supplies, including computer equipment, track lighting and summer camp trophies. As stated above, PEER does not question the value of a maritime museum, but funds for the operation of such should come from private donations or maritime organizations. MISS. CODE ANN. Section 29-15-9 (1972) provides for the public's education on tidelands, not maritime history. *(NOTE: DMR included this project as a "Project of Special Merit," contingent upon revenues exceeding appropriations, in its recommended FY 1998 recommended funding to the Legislature.)*

- *Wildlife Rehabilitation and Nature Preservation Society (WRANPS), $10,000(1997 Management)*: Private citizens formed this non-profit organization in 1983 to provide proper care for injured or orphaned wildlife. WRANPS' four objectives are to rescue, rehabilitate, and release wildlife and to educate the public concerning such. These actions do not conserve, reclaim, preserve, or acquire tidelands or educate the public concerning tidelands, which MISS. CODE ANN. Section 29-15-9 (1972) requires. WRANPS expended $1,470 of this appropriation to pay its telephone and utilities; $7,273 for pet food and veterinary bills; and, $1,144 for insurance premiums.

- *Wildlife Rehabilitation and Nature Preservation Society (WRANPS), $20,000 (1998 Management)*: Again, this appropriation does not meet the requirements of MISS. CODE ANN. Section 29-15-9 (1972). WRANPS expended $889 of this appropriation to pay its telephone and utilities; $3,421 for pet food and veterinary bills; and, $1,234 for insurance premiums. *(NOTE: DMR included this project as a "Project of Special Merit," contingent upon revenues exceeding appropriations, in its FY 1998 recommended funding to the Legislature.)*

PEER also identified $2,734 in expenditures within two other projects which do not meet the Tidelands Funds policy as set forth in MISS. CODE ANN. Section 29-15-9 (1972).

- *Biloxi Bay Chamber of Commerce, $234*: The Biloxi Bay Chamber of Commerce received $30,000 in this FY 1998 Management project appropriation to create a marsh estuary to divert attention from unsightly outfall drainage and to determine if such estuaries could be used to replace storm drains. The chamber has paid faculty and students of Mississippi State University's departments of Landscape Architecture and Agricultural and Biological Engineering for construction of the estuary. The chamber also expended $150 for a cruise aboard the Biloxi Maritime and Seafood Industry Museum's schooner as appreciation for the students' work and $84 for the purchase of t-shirts for volunteers from the Gulf Coast Research Lab. Purchases of schooner cruises and t-shirts do not meet the requirements of MISS. CODE ANN. Section 29-15-9 (1972).

- *Gulf Coast Research Lab, Point Cadet, $2,500*: The Gulf Coast Research Lab received $200,000 in this FY 1997 Public Access project appropriation to repair and renovate existing Point Cadet facilities, including the Marine Education Center. The lab paid a $2,500 honorarium to the JASON Project's founder for his involvement in the JASON VIII Reception held on January 21, 1997, to promote the JASON Project in Mississippi. The JASON Project provides a means of participation for teachers and students around the world to participate in global explorations using advanced interactive telecommunications. The JASON VIII project explored Iceland and Yellowstone. PEER does not question the integrity of this educational program for students, but takes exception to the lab expending $2,500 in Tidelands Funds for an honorarium in conjunction to a project which focused on Iceland and Yellowstone and not on tidelands.

The Legislature's line-item appropriations without consistent needs-based analysis creates the danger of such appropriations being used for purposes other than insuring tidelands management. Further, the Legislature's appropriating funds without consideration given to prior compliance with grant agreements does not enhance the likelihood of local entities' future compliance. Line-item budgeting with no needs analysis for such programs may not insure that

tidelands resources are protected, preserved, or enhanced or that funds are expended for the advancement of the legislatively stated objectives of Tidelands Funds as set forth in MISS. CODE ANN. Section 29-15-9 (1972).

Recommendations

1. The Legislature should require the Department of Marine Resources to utilize objective evaluation criteria to review all proposals from state agencies and local entities for Management and Public Access projects. Based on this review, DMR should compile a comprehensive list, in priority order, of such projects and submit the list to the Legislature by January 1 of each year. The Legislature should utilize DMR's comprehensive list as a point of reference for appropriating Tidelands Funds to the department on behalf of state agencies and local entities.

   Should other Management and Public Access projects which are not included on DMR's comprehensive list be considered for funding during the appropriation process, the Legislature should refer such projects to DMR. The department should evaluate the merits of such projects in accordance with the same evaluation criteria used to compile the list initially submitted to the Legislature and report the results of the evaluation to the Legislature prior to the conclusion of the legislative session. The Legislature should strive to ensure that all projects receiving Tidelands Funds have been objectively and equally evaluated and are in compliance with statutory provisions for the use of such funds.

2. If a state agency or local entity received a Tidelands Funds appropriation the prior year, the Legislature should only make subsequent appropriations of Tidelands Funds to those agencies or entities which DMR personnel certify have complied with all grant agreement provisions. The Legislature should require DMR to prepare an annual report, to be submitted with its annual recommendations for funding, of prior years' projects' compliance with grant agreement provisions for the Legislature's consideration in making appropriations.

Appendix A

Status of Fiscal Years 1996-1998 Appropriated Tidelands Projects
As of May 15, 1998 *

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Archives and History, Department of (1)								
Archives and History	1998	Mgt	40,000.00 **		18,559.00	21,441.00	Locate and assess the condition, age and cultural affiliation of what is thought to be a French Colonial shipwreck in the Bay of Biloxi	Incomplete
Total for Entity			40,000.00	0.00	18,559.00	21,441.00		
Bay St. Louis, City of (2)								
Bay St. Louis Jetty Project	1997	Public Access	375,000.00		133,939.49	241,060.51	Provide an access road to the beach and a parking lot in an area of concentrated population and activity	Incomplete
City of Bay St. Louis Waterfront Project	1998	Public Access	150,000.00		0.00	150,000.00	Partially replace the Ulman Avenue Pier, including lighting and handicap accessibility	Incomplete
Total for Entity			525,000.00	0.00	133,939.49	391,060.51		
Biloxi Bay Chamber of Commerce (1)								
Biloxi Bay - Chamber of Commerce Salt Marsh Development	1998	Mgt	30,000.00 ***		14,901.57	15,098.43	Create marsh estuary to divert attention away from unsightly outfall drainage pipes and to determine if such could be used to replace storm drains	Incomplete
Total for Entity			30,000.00	0.00	14,901.57	15,098.43		
Biloxi Maritime & Seafood Museum (2)								
Biloxi Seafood Museum	1997	Public Access	150,000.00 **		151,275.42	-1,275.42	Retire construction and maintenance costs for two schooners, secure maritime insurance, and purchase archival and exhibit materials	Complete
Biloxi Seafood Museum	1998	Mgt	100,000.00 **		20,024.54	79,975.46	Provide schooner maintenance, develop an Elderhostel program, acquire computer and copy equipment, enhance Outreach coordinator position, and construct floating docks	Incomplete
Total for Entity			250,000.00	0.00	171,299.96	78,700.04		

* The Office of the Secretary of State has collected Tidelands revenues since FY 1990. DWFP's Bureau of Marine Resources awarded funds at its discretion during FYs 1991-1995. The Legislature initiated line-item appropriations for Tidelands projects in FY 1996.

** Project does not meet requirements of Tidelands Funds policy set forth in MISS. CODE ANN. Section 29-15-9 (1972). (See report, page 18.)

*** Some expenditures within project do not comply with Tidelands Funds policy set forth in MISS. CODE ANN. Section 29-15-9 (1972). (See report, page 19.)

SOURCE: PEER analysis of tidelands grantees' documentation and Department of Marine Resources records.

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Biloxi Port Commission (3)								
City of Biloxi Port Commission Boat Docking Facilities	1996	Public Access	500,000.00		529,496.00	-29,496.00	Construct piers and bulkheads and conduct maintenance dredging in order to provide a marina for shrimping vessels.	Complete
City of Biloxi Port Commission	1997	Public Access	550,000.00		576,574.20	-26,574.20	Construct piers and parking for a marina for shrimping vessels and a recreational boat launch	Complete
City of Biloxi Waterfront Project	1998	Public Access	300,000.00		17,445.39	282,554.61	Demolish building; construct new building, pier, parking, boat launch, entrance drive; and dredge canal	Incomplete
Total for Entity			1,350,000.00	0.00	1,123,515.59	226,484.41		
D'Iberville, City of/D'Iberville Port Commission (3)								
City of D'Iberville Port Commission Boat Docking Facilities	1996	Public Access	300,000.00		364,480.35	-64,480.35	Construct 2 public boat launching ramps; extend existing main pier and construct 2 additional piers underneath I-110 bridge	Complete
City of D'Iberville Port Commission	1997	Public Access	350,000.00		209,512.81	140,487.19	Construct a 150- to 200-boat marina with auxiliary parking and amenities	Incomplete
D'Iberville Port Commission	1998	Public Access	200,000.00		10,377.63	189,622.37	Construct a 150- to 200-boat marina with auxiliary parking and amenities	Incomplete
Total for Entity			850,000.00	0.00	584,370.79	265,629.21		
Environmental Quality, Department of (1)								
DEQ - Non-Point Source Pollution	1998	Mgt	50,000.00		0.00	50,000.00	Conduct comprehensive water quality monitoring along the public beacheswithspecial emphasis on bacteriological data collection	Incomplete
Total for Entity			50,000.00	0.00	0.00	50,000.00		
Gautier, City of (2)								
Gautier Dredging Project	1997	Public Access	50,000.00		50,214.52	-214.52	Dredge waterway and construct bulkhead, boat launch, ramp, pier and boardwalk	Complete
City of Gautier Waterfront Project	1998	Public Access	75,000.00		0.00	75,000.00	Construct bulkhead, pier, nature walk, and parking	Incomplete
Total for Entity			125,000.00	0.00	50,214.52	74,785.48		

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Gulfport, City of (3)								
City of Gulfport Pier Repairs	1996	Public Access	500,000.00	58,500.00	552,685.40	5,814.60	Renovate and replace three public piers and make improvements to boat launches at Gulfport Small Craft Harbor	Complete
Gulfport Harbor Repair and Renovation	1997	Public Access	550,000.00	80,000.00	626,761.03	3,238.97	Construct new Courthouse Road fishing pier and extend West Side Pier	Complete
City of Gulfport Waterfront Project	1998	Public Access	200,000.00	30,000.00	222,023.79	7,976.21	Extend West Side Pier	Complete
Total for Entity			1,250,000.00	168,500.00	1,401,470.22	17,029.78		
Hancock County Board of Supervisors (3)								
Hancock County Board of Supervisors Marina Facility	1996	Public Access	500,000.00	307,374.85	68,814.00	738,560.85	Construct Bayou Caddy Marina for public access to recreational and commercial fleets.	Incomplete
Hancock County Board of Supervisors Marina Facility	1997	Public Access	375,000.00	47,468.18	322,957.17	99,511.01	Construct marina with docking and launching capabilities	Incomplete
Hancock County Board of Supervisors Waterfront Project	1998	Public Access	150,000.00	24,863.15	7,016.60	167,846.55	Bid project; construct bulkhead, ramps, pumpout and piers; and dredge	Incomplete
Total for Entity			1,025,000.00	379,706.18	398,787.77	1,005,918.41		
Harrison County Board of Supervisors (4)								
DeLisle Boat Launching Ramp & Pier	1996	Public Access	100,000.00	5,028.68	90,531.77	14,496.91	Construct public boat launching ramp with adjacent pier and parking facilities on existing canal.	Complete
Long Beach Piers	1997	Public Access	200,000.00	4,902.97	224,275.41	-19,372.44	Demolish existing pier and construct new pier	Complete
Old Popp's Ferry Causeway	1997	Public Access	200,000.00	10,488.60	10,526.14	199,962.46	Develop old road bed into a public waterfront area with boardwalks, nature trails, picnic areas and improved boat launch	Incomplete
Parker's Creek Boat Ramp	1997	Public Access	50,000.00	1,226.50	53,853.02	-2,626.52	Make repairs and improvements to boatlaunch, including additional parking	Complete
Total for Entity			550,000.00	21,646.75	379,186.34	192,460.41		
Jackson County Board of Supervisors (1)								
Jackson County Board of Supervisors Fort Bayou Parks and Boat Ramp	1997	Public Access	75,000.00		0.00	75,000.00	Construct piers and bulkhead and paveparking area with concrete	Incomplete
Total for Entity			75,000.00	0.00	0.00	75,000.00		

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Long Beach, City of (3)								
Long Beach Harbor Repairs	1996	Public Access	175,000.00	6,557.06	179,377.34	2,179.72	Make miscellaneous repairs and improvements at Long Beach Small Craft Harbor	Complete
Long Beach Harbor Repairs	1997	Public Access	250,000.00	5,343.65	272,667.17	-17,323.52	Add boat slips, construct new fishing pavilion, upgrade electrical system on Pier 2, and deepen entrance channel	Complete
City of Long Beach Water Front Project	1998	Public Access	200,000.00	1,749.78	27,256.02	174,493.76	Construct new fishing pavilion, dredge access channel and harbor, and installrubberbumpers at launch ramp piers	Incomplete
Total for Entity			625,000.00	13,650.49	479,300.53	159,349.96		
Marine Resources, Department of (27)								
Department of Marine Resources Land Acquisition	1996	Mgt	250,000.00		250,000.08	-0.08	Secure wetlands in Hancock County and the Bangs Lake area for Coastal Preservation Program	Complete
Department of Marine Resources Fishing Reefs	1996	Mgt	375,000.00		137,000.00	238,000.00	Develop and enhance habitat while also providing habitat for continual reef fish population growth	Incomplete
DMR Fishing Reefs Construction and Artificial Reefs	1997	Mgt	450,000.00	238,000.00	629,799.64	58,200.36	Develop and enhance artificial reefs to provide habitat for fish growth, conduct economic impact study of reef, and preserve RoundIsland Light House	Incomplete
Coastal Wetland and Land Use Trends	1997	Mgt	60,000.00		10,031.40	49,968.60	Assess changes in coastal land use and wetlands due to recent development, utilizing new and advanced technologies	Incomplete
MS Coastal Zone Management Grant - Non Point Source Program	1997	Mgt	90,000.00		0.00	90,000.00	Provide matching funds for the NOAA/OCRM grant	Incomplete
Land Acquisition - Grant Match	1997	Mgt	300,000.00		300,000.00	0.00	Secure coastal wetlands in Hancock County for preservation and enhancement	Complete
Coastal Preserves - Acquisition	1997	Mgt	170,000.00		82,415.58	87,584.42	Acquire critical wetland habitat relative to targeted Coastal Preserves	Incomplete
Coastal Preserves - Planning & Development	1997	Mgt	33,000.00		33,000.00	0.00	Develop strategic plan for Coastal Preserves Program, coordinate acquisitions and secure grants	Complete
National Estuarine Reserve Trust: Grant Match	1997	Mgt	200,000.00		0.00	200,000.00	Provide grant match with NOAA for establishment of a federal/state National Estuarine Research Reserve in Jackson County	Incomplete
Artificial Reef Plan for the State of MS (Part II)	1997	Mgt	10,000.00		6,500.00	3,500.00	Develop and enhance artificial reefs to provide habitat for fish growth	Complete
Emergency Response Upgrade	1997	Mgt	25,000.00		8,692.00	16,308.00	Purchase equipment and materials needed to respond to environmental emergencies in the Mississippi Coastal Zone	Incomplete

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Marine-Related Comprehensive Economic Activity Database	1997	Mgt	35,000.00		23,371.64	11,628.36	Develop topical networking database applicable to marine activities to aid in making resource management decisions	Complete
Mississippi Sound Oyster Reef Survey	1997	Mgt	10,000.00		1,978.34	8,021.66	Characterize bottom type and map oyster reefs in the Mississippi Sound	Complete
Shellfish Growing Waters Management Plan	1997	Mgt	40,000.00		0.00	40,000.00	Develop predictive model for managing oyster reef openings and closures in Mississippi waters	Incomplete
Biotechnology Park: Saltwater Bait Shrimp Culture/Marketing	1997	Mgt	75,000.00		75,000.00	0.00	Create a biotechnology park in which licensed live bait shrimp dealers aquaculturally produce saltwater bait shrimp to expand thebaitshrimp supply to meet existing market demands and to create new markets	Complete
East Jackson County Oyster Reef	1997	Mgt	50,000.00		35,388.90	14,611.10	Transfer live oysters and cultch material dredged from restricted waters to conditionally approved waters	Complete
Derelict Vessels - Commission on Marine Resources	1997	Mgt	100,000.00		81,735.44	18,264.56	Remove derelict vessels from coastal waterways	Incomplete
Discretionary Funds - Commission on Marine Resources	1997	Mgt	290,000.00		274,980.35	15,019.65	Fund tidelands projects at the discretion of the Department of Marine Resources	4 of 11 complete
DMR - Coastal Preserve/Acquisition	1998	Mgt	150,000.00		0.00	150,000.00	Acquire critical wetland habitat relative to targeted Coastal Preserves	Incomplete
DMR - Coastal Wetlands Program Documents Update	1998	Mgt	100,000.00		0.00	100,000.00	Print Mississippi Coastal Programs publications, posters, Coastworks booklets, and the Marine Discovery Series booklets	Incomplete
DMR - Coastal Zone Management Matching Funds	1998	Mgt	45,000.00		0.00	45,000.00	Support Coastal Zone Management projects which will prevent Nonpoint Source Pollution to provide for industrial expansion	Incomplete
DMR - Derelict Vessel Removal	1998	Mgt	150,000.00		0.00	150,000.00	Fund contracts with marine salvage operators to remove sunken derelict vessels from coastal waterways	Incomplete
DMR - Discretionary Match	1998	Mgt	415,000.00		292,803.15	122,196.85	Fund tidelands projects at the discretion of the Department of Marine Resources	5 of 11 complete
DMR - Marine Litter Program and Removal of Derelict Crab Traps	1998	Mgt	50,000.00		0.00	50,000.00	Promote existing marine litter campaign and create derelict crab trap removal program	Incomplete
DMR - Mississippi Fish Banks, Inc.	1998	Mgt	150,000.00		0.00	150,000.00	Develop artificial reef in the Mississippi Sound to provide a habitat for increased population of fish species and preserve the Round Island Lighthouse	Incomplete
DMR - Red Tide Program Initiative	1998	Mgt	100,000.00		0.00	100,000.00	Develop/implement a Red Tide monitoring program for both water and oyster meats, develop state lab FDA testing capabilities, and develop an improved biotoxin contingency plan	Incomplete

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
DMR - Artificial Reefs	1998	Mgt	150,000.00		0.00	150,000.00	Develop and enhance artificial reefs to provide habitat for fish growth	Incomplete
Total for Entity			3,873,000.00	238,000.00	2,242,696.52	1,868,303.48		
Moss Point, City of (3)								
City of Moss Point Boat Docking Facilities	1996	Public Access	150,000.00		188,500.00	-38,500.00	Acquire three parcels along the river in downtown and an island for use in the Urban Waterfront Plan	Complete
City of Moss Point Boat Docking Facility	1997	Public Access	75,000.00	3,188.50	34,000.00	44,188.50	Acquire three parcels along the river in downtown and an island for use in the Urban Waterfront Plan	Complete
City of Moss Point Waterfront Project	1998	Public Access	75,000.00	3,188.50	70,000.00	8,188.50	Acquire seven parcels along the river in downtown to allow construction of Pelican Landing	Complete
Total for Entity			300,000.00	6,377.00	292,500.00	13,877.00		
Ocean Springs Harbor Commission (3)								
City of Ocean Springs Port Commission Harbor Repairs	1996	Public Access	150,000.00		153,258.03	-3,258.03	Dredge Small Craft Harbor, replace 64 berthing slips and construct 10 additional slips	Complete
City of Ocean Springs/Ocean Springs Harbor Commission	1997	Public Access	150,000.00		0.00	150,000.00	Dredge Small Craft Harbor,constructbulkhead and dock, and install 21 mooring pilings	Incomplete
Jackson County Board of Supervisors Ocean Springs Harbor Project	1998	Public Access	100,000.00		0.00	100,000.00	Dredge Small Craft Harbor and construct a flow through bulkhead on the existing pier next to the main channel	Incomplete
Total for Entity			400,000.00	0.00	153,258.03	246,741.97		
Pascagoula, City of (1)								
City of Pascagoula Round Island Project	1998	Public Access	100,000.00		0.00	100,000.00	Construct a 9800 cubic yard breakwater,which will also serve as a fishing bank, to reclaim a sand beach surrounding the lighthouse	Incomplete
Total for Entity			100,000.00	0.00	0.00	100,000.00		
Pascagoula Port Commission (2)								
City of Pascagoula Port Commission Boat Launching Facilities	1996	Public Access	150,000.00		157,779.74	-7,779.74	Construct new boat launch with expanded parking and renovation of existing ramps	Complete
Pascagoula Port Commission Boat Launching Facility	1997	Public Access	75,000.00		67,569.20	7,430.80	Improve boat launching facilities and construct one or more new facilities	Complete
Total for Entity			225,000.00	0.00	225,348.94	-348.94		

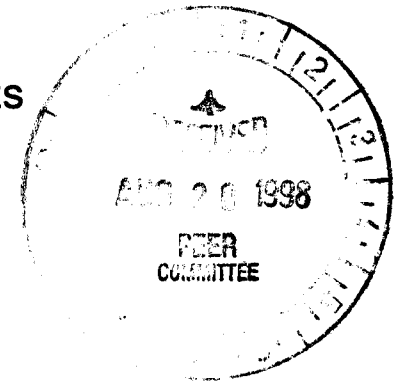
Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Pass Christian, City of (3)								
Pass Christian Harbor Repairs	1996	Public Access	150,000.00		150,000.00	0.00	Repair facilities, improve north wall of the harbor, and replace decking and electrical system on two oldest commercial docking piers	Complete
Pass Christian Harbor Repairs	1997	Public Access	275,000.00		222,186.85	52,813.15	Repair east retaining wall and construct additional commercial boat slips for displaced Biloxi commercial fishermen	Incomplete
City of Pass Christian Retaining Wall Project	1998	Public Access	300,000.00		0.00	300,000.00	Repair east retaining wall and construct additional commercial boat slips for displaced Biloxi commercial fishermen	Incomplete
Total for Entity			725,000.00	0.00	372,186.85	352,813.15		
University of Southern Mississippi, Gulf Coast Research Lab								
Laboratory Study on All Aquatic Life								
Stock Enhancement	1996	Mgt	75,000.00		87,710.79	-12,710.79	Adapt aquaculture technologies into fisheries management tools for stock enhancement and assessment	Complete
Mapping Seagrass Resources	1996	Mgt	8,954.00		7,922.40	1,031.60	Assess seagrass communities in the MS Sound and to prepare maps of existing seagrass beds and habitat	Complete
Gulf Killifish	1996	Mgt	17,729.00		17,759.19	-30.19	Assess the Gulf Killifish as a model to serveasa bioindicator of the general health of tidelands and to enhance its potential as a baitfish	Complete
Settlement Indices	1996	Mgt	36,476.00		35,584.20	891.80	Provide data on the abundance of blue crab megalopae and juveniles for fisheries management	Complete
Marsh Edge Habitants	1996	Mgt	44,131.00		31,596.75	12,534.25	Provide information regarding the temporaland spatial use of marsh-edge habitat by young species.	Complete
Aging Roe Mullet Harvest	1996	Mgt	17,710.00		11,626.34	6,083.66	Collect data and assess the Roe Mullet population and its impact on the food chain and commercial harvesting	Complete
Gulf Coast Research Lab - Point Cadet	1997	Public Access	200,000.00 ***		189,664.18	10,335.82	Provide for repairs and renovation to existing facilities at campus, for graduate student support, and for other salary/program support	Incomplete
Gulf Coast Research Lab - Cedar Point Campus	1997	Public Access	200,000.00		0.00	200,000.00	Provide for initial development of the campus, including a road, a pier, and limited building construction	Incomplete
Gulf Coast Research Lab Study on All Aquatic Life								

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Age Work on Flounder	1997	Mgt	39,500.00		30,918.01	8,581.99	Collect data to develop an age-length key bysex for flounder to provide a method for assigning ages to fish where only length is provided	Incomplete
Pascagoula River Salinity Wedge	1997	Mgt	64,800.00		26,391.25	38,408.75	Generate a multiviariate index that expresses dynamic changes in benthic communities colonizing artificial substrate assemblies (ASA's) in relation to salinity fluctuations	Incomplete
Environmental Assessment	1997	Mgt	114,750.00		68,259.30	46,490.70	Conduct survey of estuaries and sample sediments to assess the environmental health of major coastal estuaries	Incomplete
Red Tide Study	1997	Mgt	24,300.00		21,334.94	2,965.06	Document, monitor and assess the impact of the toxic red tide on the environment	Complete
Marine Debris Education	1997	Mgt	6,650.00		1,652.17	4,997.83	Develop a resource guide for teachers' classroom use with one chapter focusing on marine pollution	Complete
Gulf Coast Research Lab - Stock Enhancement	1997	Mgt	200,000.00		201,497.23	-1,497.23	Develop technology to produce large numbers of indigenous finfish species for introduction into MS waters to enhance declining numbers of those species	Complete
Effects of Trawling on Seagrass Resources in MS Sound	1997	Mgt	87,300.00		66,990.56	20,309.44	Collect data on the effects of trawling on seagrasses to initiate the implementation of a mandate on MDMR to address issues related to seagrasses in the MS Sound	Incomplete
Aging the Roe Mullet Harvest in MS, 1996	1997	Mgt	18,000.00		20,077.40	-2,077.40	Assess the age structure of the population of the mullet harvested by the roe mullet industry in Mississippi waters.	Complete
Impact of Fish Predation on Blue Crab Recruitment	1997	Mgt	42,700.00		47,075.60	-4,375.60	Investigate the influence of fish predation on recruitment potential of blue crabs in the Mississippi Sound	Incomplete
Marsh Edge Habitats as a Nursery for Fishers - Phase II	1997	Mgt	36,000.00		40,788.60	-4,788.60	Sample impacted and non-impacted marsh-edge habitats to determine the spatial and temporal use of these habitats by commercially and ecologically important species	Complete
Gulf Coast Research Lab Cedar Point Campus	1998	Public Access	200,000.00		7,815.00	192,185.00	Construct or purchase facilities (primarily production wet-laboratory space)	Incomplete
Acquisition of Stock Assessment Data from the Commercial Catch of Fin-fish in Mississippi	1998	Mgt	100,000.00		33,781.53	66,218.47	Obtain length distribution data for selected commercial species for development of age-length keys for stock assessment models to evaluate status of local stocks	Incomplete
Gulf Coast Research Lab Red Tide	1998	Mgt	100,000.00		30,881.39	69,118.61	Collect data on the occurrence and distribution of this toxic algal species in Mississippi oyster reefs	Incomplete
Assessment & Monitoring of Artificial, Inshore, Low Profile Reefs Located Adjacent to Mississippi's Coastal Marshes	1998	Mgt	50,000.00		16,405.26	33,594.74	Develop protocol for assessment of low profile artificial reefs, monitor the species composition of sports fish on selected reefs, and providecreel census data	Incomplete

Appropriated Project	Fiscal Year	Type	Tidelands Grant	Interest & Other	Expenses	Balance	Purpose	Status
Gulf Coast Research Lab Stock Assessment of Sea Trout, Red Drum	1998	Mgt	100,000.00		5,598.94	94,401.06	Develop stock assessment for red drum and spotted sea trout to determine the age, batch fecundity and spawning frequency of the species	Incomplete
Total for Entity			1,784,000.00	0.00	1,001,331.03	782,668.97		
University of Southern Mississippi, Institute of Marine Science (1)								
Impact of Nutrient Inputs on Water Quality of St. Louis Bay	1997	Mgt	18,000.00		17,503.71	496.29	Conduct environmental study to evaluate the impacts of nutrient inputs on key water parameters at selected stations in St. Louis Bay	Incomplete
Total for Entity			18,000.00	0.00	17,503.71	496.29		
Waveland, City of (2)								
Waveland Piers	1997	Public Access	250,000.00		261,864.55	-11,864.55	Renovate and extend, with improvements, existing public fishing pier	Complete
City of Waveland	1998	Public Access	50,000.00		0.00	50,000.00	Extend and make improvements to existing public fishing pier	Incomplete
Total for Entity			300,000.00	0.00	261,864.55	38,135.45		
Wildlife Rehabilitation & Nature Preservation Society (2)								
Wildlife Rehabilitation & Nature Preservation Society	1997	Mgt	10,000.00 **		10,041.66	-41.66	Construct shorebird aviary andclinicextension; provide medication, food and care to injured or orphaned wildlife; and, provide printed educational materials	Complete
WRANPS Organization of Mississippi	1998	Mgt	20,000.00 **		5,583.06	14,416.94	Provide medication, food and caretoeducational animals and repairs to existing cottage to serve as a discovery learning center	Incomplete
Total for Entity			30,000.00	0.00	15,624.72	14,375.28		
TOTAL			14,500,000.00	827,880.42	9,337,860.13	5,990,020.29		

Agency Response

MISSISSIPPI
DEPARTMENT OF MARINE RESOURCES



August 19, 1998

Dr. Max K. Arinder, Executive Director
P.O. Box 1204
Jackson, MS 39215-1204

Re: *A Review of the Use of Tidelands Funds*

Dear Dr. Arinder:

On August 14, 1998, Mr. Joe Ziegler and I had the opportunity to review the PEER Draft Report dated August 4, 1998, which is titled *A Review of the Use of Tidelands Funds*. We appreciate the opportunity to review the draft, and are pleased by its level of completeness and accuracy.

As a result, I have included the Department's comments on the report's recommendations as follows:

PEER Recommendation #1:

> The Legislature should require the DMR to utilize objective evaluation criteria to review all proposals from state agencies and local entities for Management and Public Access Projects. Specifically, the DMR should compile a comprehensive list, in priority order, of such projects and submit the list to the Legislature by January 1 of each year, and the Legislature should utilize DMR's comprehensive list as a point of reference for appropriating Tidelands Funds to the Department on behalf of state agencies and local entities. Should other Management and Public Access projects which are not included on DMR's comprehensive list be considered for funding during the appropriation process, the Legislature should refer such projects to the DMR. The Department should evaluate the merits of such projects in accordance with the same evaluation criteria used to compile the list initially submitted to the Legislature and report the results of the evaluation to the Legislature prior to the conclusion of the legislative session. The Legislature should

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strive to ensure that all projects receiving Tidelands Funds have been objectively and equally evaluated and are in compliance with statutory provisions for the use of such funds.

DMR Response:

The Department attempts to comply with this recommendation beginning FY00. However, priorities do change as a result of varying conditions. For example, unexpected events beyond our control, such as Red Tide blooms and other weather conditions that directly impact the feasibility of projects and plans, subsequently require a change in priority to better expend funds. There are numerous excellent proposed projects, but there will never be enough Tidelands Funds to support all of the requests. Hence, we feel that the priorities should be based on the level of compliance with each of the following criteria:

A) The Tidelands Trust Fund Statute
B) The Commission on Marine Resources' authorized 15 Year Plan
C) The Program Planning needs of the DMR and the MS Gulf Coast Local Government Entities

In essence, the DMR conclusively agrees with the recommendations of the PEER Review Team.

PEER Recommendation #2:

If a state agency or local entity received a Tidelands Fund appropriation the prior year, the Legislature should only make subsequent appropriations of Tidelands Funds to those agencies or entities which DMR personnel certify have complied with all grant agreement provisions. The Legislature should require DMR to prepare an annual report, to be submitted with its annual recommendations for funding, of prior year's projects' compliance with grant agreement provisions for the Legislature's consideration in making appropriations.

A Review of the Use of the Tidelands Funds – DMR Response
August 19, 1998

DMR Response:

The Department does agree with the recommendation of the PEER Review Committee, and believes that the implementation of this recommendation will aid in ensuring that the Tidelands Trust Funds are appropriated to the best interest of the State. Tidelands Proposals submitted to the DMR for consideration continue to dramatically increase in number each year, requiring more and more manpower hours be devoted to the administration of this Program. Hence, it is imperative that the DMR be provided with the additional personnel necessary for not only continuing to manage the Tidelands Trust Fund Program at its current level, but also for the implementation of the compliance phase of the Program in conjunction with this recommendation.

Thank you again for the opportunity to review and comment on the subject report. If we can be of any further assistance to you, please do not hesitate to contact us at (228) 374-5000 ext. 5010.

Sincerely,

E.G. Woods

E.G. Woods
Executive Director

EGW/apm

cc: Kelly Lockhart
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